

REMARKS

Responsive to the Office Action of July 20, 2009, to which response is now due by January 20, 2010, Applicant submits the foregoing Amendments to the Claims and the following Remarks.

Claims 1-41 are now pending in this application. Original Claims 1, 2 and 19 have been amended herein. New claims 20-41 have been added. New claim 20 is based on the original claim 19, new claim 23 is based on original claim 2, and new claims 24-39 are based on original claims 3-18 respectively. Support for new claims 21 and 40 may be found in the application, at the very least, in paragraphs [0022] and [0069], and support for new claims 22 and 41 may be found, at the very least, in paragraphs [0068] and [0069].

Favorable reconsideration of the application, as amended, is respectfully requested.

I. CLAIM REJECTION- 35 U.S.C. §112

The examiner rejects the original claims 1 and 2 pursuant to 35 U.S.C. § 112, second paragraph. The original claims 1 and 2 have been amended from "...a member having a greater Young's modulus than the first arch..." to "...a member, which is to be a part of the reinforcing member, having a greater Young's modulus than the first arch..." Applicant respectfully requests that this rejection be withdrawn.

II. OVERVIEW OF THE CLAIMED INVENTION

In the amended claims 1, 2 and 19, the first arch is not in contact with the second arch of the reinforcing member and they are in vertically spaced relationship to each other. Additionally, *the reinforcing member has a greater Young's modulus than the first arch and is not affixed to the bottom surface of the first arch*. Therefore, *the first arch of the midsole can sufficiently sink down when the foot lands*, thus alleviating the "upthrust feeling" to a wearer's sole.

Additionally, in new claims 20 and 23, the first arch of the middle foot part of the midsole is in contact with a film-like member, which is to be the reinforcing member and the first arch of the middle foot part of the midsole and the second arch of the reinforcing member other than the film-like member are in vertically spaced relationship to each other. Additionally, the film-like member having a greater Young's modulus than Young's modulus of the first arch and *thinner than the second arch of the reinforcing member is affixed to the bottom surface of the first arch* so as to allow the first arch to sink down and to also suppress the sinking down of the first arch. Therefore, *the first arch of the midsole can*

sufficiently sink down when the foot lands, thus alleviating the "upthrust feeling" to the wearers' sole.

Support for the new claims 20 and 23 may be found, at the very least, in paragraph [0067]: that is, "the bottom surface 29 of the first arch is reinforced, and so the bottom surface 29 of the first arch 2c is prevented from sinking down too much" and in ([0067], line 6-8) means "so as to allow the first arch to sink down and suppress sinking down of the first arch" in the new claims 20 and 23.

III. KITA (U.S. PATENT APPLICATION NO. 2003/0005600)

The shoe described in Kita (U.S. Patent Application No. 2003/0005600, hereinafter referred to as Kita '600), as shown in Fig.5, comprises a midsole 3 formed of a soft elastic material, and a shank member 20 formed from an upper portion 21 and a lower portion 22 and made from a thermoplastic resin. The upper portion 21 is in contact with (bonded to) a bottom surface of the midsole 3 (corresponding to a bottom surface of the first arch) in the midfoot portion B, and the lower portion 22 is connected to front and rear end edges of the upper portion 21. (Fig.5, paragraphs [0034], [0036], and [0045])

The above feature provides for an increase in the bending (flexural) rigidity of the midfoot portion of the midsole. Thus, the shank member 20 effectively exercises a shank effect when the midsole is being bent, thereby restraining the midsole 3 from being bent (bending deformation) at the midfoot portion B. (paragraphs [0008], [0046])

IV. KITA (U.S. PATENT NO. 6,625,905)

The shoe described in Kita (U.S. Patent No. 6,625,905, hereinafter referred to as Kita '905), as shown in Fig.3, comprises an upper midsole 3 formed of a soft elastic material, a lower midsole 4, and first and second corrugated sheets 6 and 7 formed of a thermoplastic resin. The second corrugated sheet 7 is in contact with (bonded to) the bottom surface of the upper midsole 3. Additionally, a through hole 11 is formed of wavy corrugated surfaces of first and second corrugated sheets 6, 7, i.e., the through-hole is formed by portions of the upper and lower midsoles 3, 4 which are reinforced by the corrugated sheets 6, 7.

This above feature provides a through hole 11 (between the first and second corrugated sheets 6, 7) that effectively exercises a shank effect. Thus, flexural (bending) rigidity of the shoe midsole region is increased and flexibility or bendability of the shoe midfoot region is decreased and flexibility or bendability of the shoe forefoot region is improved. (column 5, lines 61-67, column 6, lines 14-23)

V. CLAIM REJECTIONS- 35 U.S.C. §103(a)

The examiner rejects claims 1-9, 11-13 and 15-19 pursuant to 35 U.S.C. §103(a) as being obvious over Kita '600. Applicant respectfully traverses this rejection.

In the shoe described in Kita '600, the upper portion 21 of the shank member 20 is formed of thermoplastic resin in contact with and bonded to the bottom surface of the midsole 3 which is formed of a soft elastic material in the midfoot portion of the midsole 3. Such a structure, provides *a high rigidity of the arch portion of the midsole 3 and does not alleviate upthrust to the wearer of the midsole when the foot strikes the ground*. More specifically, the upper portion 21 of the shank member 20 of Kita '600 is a part of the shank member (reinforcing member) that prevents the midfoot portion from being bent, emphasizing the fact that the upper portion 21 has far greater rigidity than the soft elastic material of the midsole. The high rigidity upper portion 21 which is attached to the bottom portion of the soft midsole 3, provides support and rigidity to the bottom surface of the midsole 3 preventing it from sinking downwardly when the foot lands. As a result, there is a high "upthrust" (or no alleviation in "upthrust") in the arch portion of the midsole 3 when the foot lands.

In contrast, in the invention of Claims 1-41 now presented, the reinforcing member is spaced apart from and not attached to the bottom surface of the first arch of the midsole. Thus, *the first arch of the midsole can sufficiently sink down when the foot lands* alleviating the "upthrust feeling" to the wearer's sole upon footfall.

The examiner rejects claim 1-6, 11, 12, 14, 15 and 17-19 pursuant to 35 U.S.C. §103(a) as being obvious over Kita '905. Applicant respectfully traverses this rejection.

In the shoe described in Kita '905, the upper portion of the second corrugated sheet 7 is formed of thermoplastic resin and is in contact with and bonded to the bottom surface of the upper midsole 3 which is formed of a soft elastic material. The second corrugated sheet 7 member exercises a shank effect that prevents the foot from being bent. Additionally, it is clear that the second corrugated sheet 7 has a far greater rigidity than the soft elastic material of the upper midsole 3. Thus, similar to Kita '600, *the rigidity of the arch portion of the midsole 3 is very high. This prevents any substantial alleviation of the upthrust feeling to the wearer's sole upon landing*.

In contrast, as described previously, in the claimed invention the reinforcing member is spaced apart from and not attached to the bottom surface of the first arch of the midsole.

Thus, *the first arch of the midsole can sufficiently sink down when the foot lands* alleviating the "upthrust feeling" to the wearer's sole upon footfall.

For all of the foregoing reasons, Kita '600 and Kita '905 do not teach or suggest the claimed invention either alone or in combination with each other.

VI. NEW CLAIMS 20, 23

In new claims 20 and 23, and claims dependant theron, a film-like member having a greater Young's modulus than the Young's modulus of the first arch, and being thinner than the second arch of the reinforcing member, is affixed to the bottom surface of the first arch so as to allow the first arch to sink down while suppressing the first arch from sinking down. The affixed member is a thin film-like member, so the first arch of the midsole can sufficiently sink down when the foot landing.

In contrast, in the shoe of Kita '600, as shown in Fig.5, the upper portion 21 that is a part of the shank member 20, is attached to the bottom surface of the midsole. The upper portion 21 exercises the shank effect and prevents the midsole from being bent at the midfoot region. Thus, it is clear that the upper portion 21 is not a thin film-like member having the claimed functional characteristics. Additionally, Fig.5 clearly shows that the upper portion 21 is not a thin film-like member. Further, Kita '600 does not teach or suggest that a thin film-like member is attached to the bottom surface of the upper portion 21 at the midfoot region.

If the upper portion 21 was a thin film-like member, the lower 22 that is also a shank member may be considered as a thin film-like material. However, if both the upper portion 21 and lower portion 22 were thin film-like members, the shank member 20 does not exercise the shank effect: that is, the object of invention of Kita '600, which is to prevent the midsole from being bent at the midfoot region during the midsole bending by providing the shank member to the midfoot region of the midsole and increasing the bending rigidity of the midfoot region of the midsole, is not achieved. Therefore, it is clear that the shank member 20 of Kita '600 (the upper portion 21, lower portion 22) is not a thin film-like member.

In the shoe of Kita '905, similar to Kita '600, the second corrugated sheet 7 is attached to the bottom surface of the upper midsole 3 and is a member that exercisers a shank effect that prevents the foot from being bent. So, it is clear that the second corrugated sheet 7 is not a thin film-like member. Additionally, Fig.3 clearly shows that the second corrugated sheet 7 is not a thin film-like member. Still further, Kita '905 does not teach or suggest that

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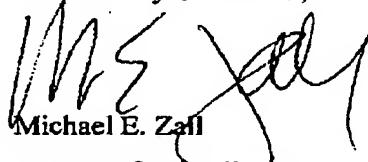
a thin film-like member is attached to the bottom surface of the upper midsole 3 at the midfoot region.

VII. CONCLUSION

Kita '600 and Kita '905, either alone or in combination with each other, do not teach or suggest the claimed invention or the benefits derived therefrom, in particular that the "upthrust feeling" to a wearer's sole is alleviated by the first arch of the midsole by sufficiently sinking down when the foot lands.

For all of the foregoing reasons, claims 1-41 are believed to be allowable, and the application is believed to be in condition for allowance

Respectfully Submitted,



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Dated: January 08, 2010

Reg. No. 27,023

I hereby certify that this correspondence is being telefaxed to the Commissioner for Patents and Trademarks to (511) 273-8200 on January 08, 2010.


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